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cont

41. The fusion protein of claim 1 or 2, wherein the domains are linked by covalent or non-covalent bonds.--

42. The fusion protein of claim 1, wherein further comprising a cellular targeting sequence.--

REMARKS

Claims 1-42 are pending in the present application. Support for the amendments to claim 1 may be found at least on page 18 of the specification. Support for the amendments to claim 2 may be found in original claim 1. New claims 38-42 have been added to the specification. Support for new claims 38-42 may be found respectively in original claim 15, on page 7, on page 7, in original claim 2, and on page 18. New claims 38-42 in no way add new matter to the specification. As such, entry and consideration thereof are respectfully requested.

Restriction of the claims

The Examiner has required election in the present application between:

Group I, claims 1-13, 18 and 36-37, drawn to a toxic fusion protein;

Group II, claims 14-20, 29 and 36-37, drawn to a membrane-targeted pathogenocide ;

Group III, claims 21-26 and 36-37, drawn to polynucleotide encoding a toxic fusion protein;

Group IV, claims 21-26 and 36-37, drawn to polynucleotide encoding a pathogenocide;

Group V, claims 27-28, drawn to a host transformed with a polynucleotide encoding a toxic fusion protein and a method of making a fusion protein;

Group VI, claims 27-28, drawn to a host transformed with a polynucleotide encoding a pathogenocide and a method of making a pathogenocide;

Group VII, claims 30-37, drawn to a method of making a pathogen-resistant plant via transformation with a fusion protein-encoding gene and plant made by that method; and

Group VIII, claims 30-37, drawn to a method of making a pathogen-resistant plant via transformation with a pathogenocide-encoding gene and plant made by that method.

As noted above, Applicants have amended claims 1, 2, 3 and 9. These amendments do not change designation of Groups I-VIII, as indicated above. Claim 1, of Group I, remains directed to a fusion protein, while Group II remains directed to a pathogenocide. Newly

added claims 38-42 are additionally directed to the invention of Group I because they similarly are drawn to fusion proteins. Applicants, hereby elect for examination on the merits, the claims of Group I, **amended** claims 1-13 and 36-42, contingent on the entry of the amendments to the claims. If for some reason the Examiner will **not** enter the above-indicated amendments to the claims, the Applicants elect Group II of the unamended, original claims, claims 14-20, 29 and 36-37, for examination. Applicants further reserve the right to prosecute the non-elected subject matter in one or more divisional applications.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact MaryAnne (Reg. No. No. 40,069) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Pursuant to 37 C.F.R. §§1.17 and 1.136(a), Applicants respectfully petition for a one (1) month extension of time filing a response in connection with the present application and the required fee of \$110.00 is attached hereto.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees

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required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17;
particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By Maryanne Armstrong
Gerald M. Murphy, Jr., #28,977

MaryAnne Armstrong, PhD #40,069

GMM/MAA
0147-0189P

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000

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